



June 8, 1999

Mr. Michael S. Wenk
Criminal District Attorney
Hays County Justice Center
110 E. Martin Luther King
San Marcos, Texas 78666

OR99-1590

Dear Mr. Wenk:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 124688.

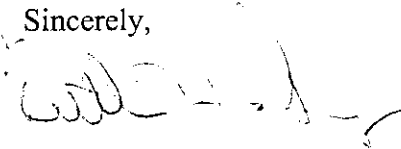
Hays County (the "county") received two requests from one requestor for, among other things, information concerning settlement agreements, budget reports, correspondence, invoices, and "the financial disclosure statements filed by Russ Molenar." You have advised the requestor that Mr. Molenar has not filed financial statements with the county, but that his campaign finance information is available from the county election administrator. You assert that the remaining information is excepted from disclosure under section 552.103(a) of the Government Code.

To show that section 552.103(a) is applicable, a governmental entity must show that (1) litigation is pending or reasonably anticipated and (2) the information at issue is related to the litigation. *University of Texas Law Sch. v. Texas Legal Found.*, 958 S.W.2d 479 (Tex. App.--Austin, 1997, no pet.), *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 at 4 (1990). You have provided information showing that the county reasonably anticipates litigation, and that the records at issue are related to that anticipated litigation.

We note, however, that the opposing party in the anticipated litigation has seen some of the submitted records. Once information has been obtained by all parties to the litigation, no section 552.103(a) interest generally exists with respect to that information. Open Records Decision Nos. 349 (1982), 320 (1982). You may withhold the records at issue that the opposing party to the anticipated litigation has not seen or had access to. We also note that the applicability of section 552.103(a) ends once the litigation concludes. Attorney General Opinion MW-575 (1982), Open Records Decision No. 350 (1982).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Ruth H. Soucy', with a stylized flourish at the end.

Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref: ID# 124688

Encl. Submitted documents

cc: Mr. Leonard Ekberg
JKL, Inc.
P.O. Box 990
Buda, Texas 78610
(w/o enclosures)